APPENDIX A—OPINIONS OF THE DISTRICT COURT

Oral Opinion, October 28, 1969.

"asphalt clause",[3] which would produce the same result. However, the defendants have made it clear that they would not consent to such a clause and if it were to be insisted upon, no settlement of the case would be possible.

To allow permissive intervention in this case would certainly delay and prejudice the adjudication of the original parties. Courts, generally, have consistently denied intervention under Rule 24 F.R.Civ.P. in Government anti-trust cases where the purpose is to defeat the entry of a consent decree. *United States* v. *Blue Chip Stamp Company*, *supra*.

All petitions for intervention should, therefore, be denied.

Prior to the institution of this action, the Government impaneled a grand jury to investigate charges that these defendants were engaging in anti-trust activities. After eighteen months, the grand jury was dismissed, without an indictment having been returned. However, during its investigation, a tremendous amount of evidentiary material was gathered together and reviewed and the testimony of many witnesses was obtained. It has been contended by many appearing here as amici curiae that the proposed decree should contain some provision releasing this material, as well as the transcript of the grand jury proceedings, from the cloak of secrecy tra-

[3] An "asphalt clause" gets its name from a group of antitrust cases against defendants engaged in the asphalt business, wherein a consent decree containing an admission of liability was approved. *United States* v. *Allied Chem. Corp.*, 1961 Trade Cas. ¶ 69,923, at 77,641 (D. Mass. 1960); *United States* v. *Bituminous Concrete Ass'n., Inc.*, 1960 Trade Cas. ¶ 69,878 at 77,487 (D. Mass.); *United States* v. *Lake Asphalt & Petroleum Co.*, 1960 Trade Cas. ¶ 69,835, at 77,272 (D. Mass.). So far as the court is aware, such a clause had never been used before and has never been used since. Furthermore, its value is doubtful, for insistence upon it would, for all practical purposes, eliminate the possibility of settling anti-trust cases.

ditionally surrounding such proceedings, in order that it might become available to treble damage claimants. At the hearing, a proposed order was presented to the court, to which all parties have agreed and which this court has signed, requiring that all evidence obtained by the grand jury, as well as its own transcript, be impounded in the hands of the Justice Department, where it may be obtained by treble damage claimants, or others, by subpoena or other appropriate means, where good cause therefor can be shown. This appears to satisfy those making this contention.

Let us now turn to a consideration of the proposed consent decree.

Section 5(a) of the Clayton Act, after providing that a final judgment or decree in an anti-trust action brought by the Government may be used with prima facie effect in treble damage actions, expressly excepts from these provisions consent decrees entered in such actions. In so doing, it implicitly recognizes consent decrees as a means of terminating civil anti-trust actions brought by the Government, and their use has become a most effective technique in anti-trust enforcement. It is reported that between 70 and 75 per cent of all such Government cases are settled in this manner, which allows the Government to obtain a large measure of injunctive relief without tremendous consumption of the limited manpower and financial resources available to the Anti-trust Division.

The decision to settle an anti-trust case in this fashion, like the decision to commence it in the first place, is an administrative decision and is a part of the implementation of the general policy of the Executive branch of government. As such, it is not subject to review by this court.

This court does have the power to disapprove the proposed settlement, but its use requires the exercise of

discretion, based upon legal, as distinguished from administrative, considerations. For instance, the court should withhold its approval if the decree be unenforceable or if it should provide for relief not consistent with the prayer of the complaint. The court may properly consider whether or not the rights of persons not parties to the action are jeopardized and whether the consent decree, on the whole, is against the public interest.

The proposed decree appears to be enforceable, and no contention to the contrary has been made. Furthermore, the relief which the decree provides is consistent with the prayer of the complaint.

It has been urged that the decree adversely affects the rights of treble damage claimants in the prosecution of their own claims. But, while it is true that the decree does not afford prima facie proof of liability, the rights of the claimants to prosecute their own claims is not otherwise affected. We know of no authority, and none has been brought to our attention, which would require the Government to prosecute this case to judgment solely for the purpose of aiding treble damage claimants. The Government is the designated representative of the public, and sound policy requires that it be free to conduct and control its litigation in the public interest. This objection to the decree is not valid.

It is strongly urged by many that the decree should be rejected as not being in the public interest. But no good reason appears to this court for finding this to be so. In the first place, it provides the Government with substantially all the relief that it could have obtained if it had tried the case and won. It avoids the tremendous expense of time and money which would be required of the Anti-trust Division in the event of a trial. The decree brings immediate results, whereas if this case were to be tried, any benefit of a final decree would be delayed many years. It brings an assured result. Those objecting

have all assumed that the Government would win the action if it were brought to trial. But the Government's case is based upon a novel and unadjudicated theory. Knowledgeable people disagree as to the final result. If the Government should try this case and lose, the benefits of the decree would be lost. For these reasons, it appears to the court that the proposed decree is in the public interest.

For the foregoing reasons, all petitions to intervene, as parties, are hereby denied and the proposed consent decree is hereby approved.

DATED: November 7, 1969.

/s/ JESSE W. CURTIS
Jesse W. Curtis
United States District Judge

APPENDIX B.—COMPLAINT.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL No. 69-75-JWC

Filed: 1/10/69

UNITED STATES OF AMERICA, *Plaintiff*,

v.

AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.;
GENERAL MOTORS CORPORATION;
FORD MOTOR COMPANY;
CHRYSLER CORPORATION; and
AMERICAN MOTORS CORPORATION,
Defendants.

Complaint

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the defendants named herein, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act.

2. Each of the corporate defendants named herein transacts business and is found within the Central District of California.

II

DEFENDANTS

3. Automobile Manufacturers' Association, Inc., a corporation organized and existing under the laws of the State of New York with its principal place of business in Detroit, Michigan, is made a defendant herein. Automobile Manufacturers' Association, Inc., is a trade association whose membership consists mainly of firms engaged in the business of manufacturing and selling motor vehicles and component parts and accessories thereto in various states of the United States.

4. The corporations named below are made defendants herein. Each of said corporations is organized and exists under the laws of the State indicated and has its principal place of business in the city indicated. Within the period of time covered by this complaint said defendants have primarily engaged in the business of manufacturing and selling motor vehicles in various states of the United States, and also manufacture and sell component parts and accessories thereto.

Defendant Corporation	*State of Incorporation*	*Principal Place of Business*
General Motors Corporation	Delaware	Detroit, Michigan
Ford Motor Company	Delaware	Dearborn, Michigan
Chrysler Corporation	Delaware	Highland Park, Michigan
American Motors Corporation	Maryland	Detroit, Michigan

5. Whenever in this complaint reference is made to any act, deed or transaction of a corporate defendant, such allegation shall be deemed to mean that said corporation engaged in said act, deed or transaction by or through its officers, directors, agents or employees while they were actively engaged in the management, direction or control of corporate business affairs.

III

Co-Conspirators

6. Each of the corporations listed below in this paragraph is not named a defendant herein but is named as a co-conspirator and has participated as a co-conspirator with the defendants in the offense hereinafter charged and has performed acts and made statements in furtherance thereof.

Corporation	*State of Incorporation*	*Principal Place of Business*
Checker Motor Corporation (successor to Checker Cab Manufacturing Corporation)	New Jersey	Kalamazoo, Michigan
Diamond T Motor Car Company	Illinois	Cleveland, Ohio
International Harvester Company (a consolidation of International Harvester Company, a New Jersey Corporation, and International Harvester Corporation, a Delaware Corporation)	Delaware	Chicago, Illinois
Studebaker Corporation (successor to Studebaker Packard Corporation)	Michigan	South Bend, Indiana
White Motor Corporation (successor to The White Motor Company)	Ohio	Cleveland, Ohio
Kaiser Jeep Corporation (successor to Willys Motors, Inc., a Pennsylvania Corporation)	Nevada	Oakland, California
Mack Trucks, Inc. (successor to Mack Manufacturing Corporation)	New York	New York

7. Various other persons, firms and corporations not made defendants herein have participated as co-conspirators with the defendants in the offense charged in this complaint and have performed acts and made statements in furtherance thereof.

IV

Definition

8. As used herein, the term "motor vehicle air pollution control equipment" means equipment, or any part thereof, designed for installation on a motor vehicle or any system

or ongoing modification on a motor vehicle which is designed to cause a reduction of pollutants emitted from the vehicle, including, but not limited to, any device for the control of emissions of pollutants from the exhaust system, the crankcase, the carburetor, or the fuel tank.

V.

Trade and Commerce

9. Automobiles for the most part are manufactured in the State of Michigan and are shipped therefrom to each of the fifty states of the United States. Some automobiles are assembled in various states of the United States from parts manufactured in the State of Michigan and other states. In 1966, 8,315,000 passenger cars and 15,864,000 trucks and buses; exclusive of off the-road vehicles, were registered in the United States. In that year, 8,604,712 passenger cars valued at more than $47½ billion and 1,791,587 commercial vehicles valued at more than $3.9 billion were produced in this country. Of the trucks produced, 96,560 were built with diesel motors.

10. The largest number of passenger cars registered and new cars sold in any state of the United States in 1966 was in the State of California where 7,621,792 cars were registered and 832,338 new cars sold. The largest number of passenger cars registered in any county of any state in the United States in 1966 was in Los Angeles County where 2,932,980 cars were registered. Similarly, in 1966 California accounted for the largest number of truck registrations and new truck sales with 1,542,984 trucks registered and 150,927 new trucks sold, and Los Angeles County accounted for the largest number of trucks registered, numbering 436,218.

11. Since at least 1953 it has been established that motor vehicles contribute to air pollution by the emission of hydrocarbons, carbon monoxide, oxides of nitrogen and other contaminants. For example, in Los Angeles County, as of January 1967, gasoline-powered motor vehicles

accounted for 12,465 tons out of a total of 14,610 tons, or 85.3% of contaminants emitted into the ambient air daily. As a result of new and continuing requirements that automotive vehicles be equipped with air pollution control devices, a large and growing market for the production and installation of such devices has developed. Motor vehicle air pollution control devices are shipped in interstate commerce either as engine or system modifications or as equipment attached to automobiles, which are shipped from Michigan and other states to each of the fifty states of the United States.

VI

Offense Alleged

12. Beginning at least as early as 1963, and continuing thereafter up to and including the date of this complaint, the defendants and co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in motor vehicle air pollution control equipment in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

13. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

(a) to eliminate all competition among themselves in the research, development, manufacture and installation of motor vehicle air pollution control equipment; and

(b) to eliminate competition in the purchase of patents and patent rights from other parties covering motor vehicle air pollution control equipment.

14. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which they combined and

conspired to do, including, among other things, the following:

(a) agreed that all industry efforts directed at the research, development, manufacture and installation of motor vehicle air pollution control equipment should be undertaken on a non-competitive basis;

(b) agreed to seek joint appraisal of patents and patent rights submitted to any of them by persons not parties to a cross-licensing agreement entered into on July 1, 1955, and amended and renewed periodically, and to require "most-favored purchaser" treatment of all parties to the cross-licensing agreement if any one were licensed by a person not a party to that agreement;

(c) agreed to install motor vehicle air pollution control equipment only upon a uniform date determined by agreement, and subsequently agreed on at least three separate occasions to attempt to delay the installation of motor vehicle air pollution control equipment:

(1) in 1961 the defendants agreed among themselves to delay installation of "positive crankcase ventilation" on vehicles for sale outside of California until the model year 1963, despite the fact that this antipollution device could have been installed nationally for the model year 1962 and that at least some automobile manufacturers expressed willingness to do so, in the absence of a contrary industry-wide agreement;

(2) in late 1962 and extending into 1963, the defendants agreed among themselves to delay installation of an improvement to the positive crankcase ventilation device, an improvement which the California Motor Vehicle Pollution Control Board had indicated it would make mandatory;

(3) in early 1964 the defendants agreed among themselves to attempt to delay the introduction of

new exhaust pollution control measures on motor vehicles sold in California until the model year 1967, despite the fact that all were capable of installing the improvement for the model year 1966, the defendants agreed to tell California regulatory officials that installation of exhaust antipollution measures would be technologically impossible before 1967, and only under regulatory pressure made possible by competing device manufacturers not in the automotive industry did the defendants agree to a California regulatory requirement that exhaust devices be installed for the model year 1966; and

(d) agreed to restrict publicity relating to research and development efforts concerning the motor vehicle air pollution problem.

VII

Effects

15. The aforesaid combination and conspiracy has had, among others, the following effects:

(a) hindering and delaying the research, development, and manufacture—both by the defendants and co-conspirators and by others not parties to the agreements alleged herein—and the installation of motor vehicle air pollution control equipment;

(b) restricting and suppressing competition among the defendants and co-conspirators in the research, development, manufacture and installation of motor vehicle air pollution control equipment; and

(c) restricting and suppressing competition in the purchase of patents and patent rights covering motor vehicle air pollution control equipment.

Prayer

Wherefore, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in a combination and conspiracy, in un-

reasonable restraint of the aforesaid interstate trade and commerce, in violation of Section 1 of the Sherman Act.

2. That each of the defendants named in this complaint, its successors, assignees and transferees, and the respective officers, directors, agents and employees thereof, and all persons acting or claiming to act on behalf thereof:

(a) be enjoined from continuing, maintaining or renewing, directly or indirectly, the combination or conspiracy hereinbefore alleged, or from engaging in any other practice, plan, program, or device having a similar effect;

(b) be enjoined from entering into any agreements, arrangements, understandings, plan or program with any other person, partnership, or corporation, directly or indirectly:

(1) to delay installation of air pollution control equipment or otherwise restrain individual decisions as to installation dates;

(2) to restrict individual publicity of research and development relating to air pollution control technology;

(3) to require joint assessment of the value of patents or patent rights relating to air pollution control equipment;

(4) to require that acquisition of patent rights relating to air pollution technology be conditioned upon availability of such rights to others upon a most-favored-purchaser basis; or

(5) to respond jointly to requests by government regulatory agencies for information or proposals concerning air pollution control technology unless such agency requests a joint response in a particular case; and

(c) be required to issue to any applicant interested in developing motor vehicle air pollution technology unrestricted, royalty-free licenses and production know-how under all United States patents owned, controlled or applied for to which the cross-licensing agreement dated July 1, 1955, as amended, has been applicable, and to make available to any such applicant all other know-how related to air pollution control technology which has been exchanged with any other defendant.

3. That the plaintiff have such other, further and different relief as the nature of the case may require and the Court may deem just and proper in the premises, including cancellation of the cross-licensing agreement dated July 1, 1955, as amended, and an injunction ensuring that all future joint arrangements relating to air pollution control technology be appropriately limited as to subject matter of joint effort and numbers of participants so as to maintain competition in the development of air pollution technology.

4. That the plaintiff recover the costs of this suit.

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Ramsey Clark
Attorney General

Edwin M. Zimmerman
Assistant Attorney General

Baddia J. Rashid
Attorney, Department of Justice

Wm. Matthew Byrne, Jr.
United States Attorney

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Raymond W. Philipps

Charles L. Marinaccio

Attorneys, Department of Justice

APPENDIX C.

Judgment of the District Court.

[¶72,907] United States v. Automobile Mfrs. Assn., Inc., General Motors Corp., Ford Motor Co., Chrysler Corp., and American Motors Corp.

In the United States District Court for the Central District of California. Civil Action No. 69-75-JWC. Entered October 29, 1969.

Case No. 2037 in the Antitrust Division of the Department of Justice.

Sherman Act.

Conspiracy — Automobile Manufacturers — Development of Smog Control Devices—Joint Activities.—Four automobile manufacturers and their trade association were prohibited from conspiring to delay and obstruct the development and installation of pollution control devices for motor vehicles. The decree prohibitions include: (1) restraining in any way the individual decisions of each auto company as to the date when it will install emission control devices; (2) agreeing not to file individual statements with governmental agencies concerned with auto emission and safety standards and from filing joint statements on such standards unless the governmental agency involved expressly authorizes them to do so; (3) continuing a 1955 cross-licensing agreement and refusing to grant royalty-free licenses on auto emission control devices under patents subject to the 1955 agreement to all who may request

them; (4) agreeing to exchange their companies' confidential information relating to emission control devices or to exchange patent rights covering future inventions in this area; and (5) continuing their joint assessment of patents on auto emission control devices offered to any of them by outside parties as well as their practice of requiring outside parties to license all of them on equal terms.

See Combination and Conspiracy, Vol. 1, ¶ 1600; Department of Justice Enforcement and Procedure, Vol. 2, ¶ 8834.10.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen., Badilia J. Rashid, Lewis Bernstein, William D. Kilgore, Jr., Raymond W. Philipps, Bernard M. Hollander, Allen E. McAllester, Charles F. B. McAleer, and C. Brooke Armat, Attys., Dept of Justice.

For the defendants: Gibson, Dunn & Crutcher, Julian O. Von Kalinowski, Paul G. Bower, Wilmer, Cutler & Pickering, Lloyd N. Cutler, and Howard P. Willens, for Automobile Mfrs. Assn., Inc.; Ross L. Malone, Lawler, Felix & Hall, Marcus Mattson, and Robert Henigson, for General Motors Corp.; Overton, Lyman & Prince, Carl J. Schuck, Wayne H. Knight, for Ford Motor Co.; McCutchen, Black, Verleger & Shea, Philip K. Verleger, and William G. Shea, for Chrysler Corp.; O'Melveny & Myers, Allyn O. Kreps, and Girard E. Boudreau, Jr., for American Motors Corp.

Final Judgment

CURTIS, D. J.: The plaintiff, United States of America, having filed its complaint herein on January 10, 1969, and the plaintiff and the defendants by their respective attorneys having severally consented to the entry of this Final Judgment without trial or adjudication of or finding on any issues of fact or law herein and without this Final Judgment constituting evidence or an admission by any of them in respect to any such issue;

Now, Therefore, before any testimony has been taken and without trial or adjudication of or finding on any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Jurisdiction*]

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," commonly know as the Sherman Antitrust Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Devices" means air pollution emission control designs, devices, equipment, methods, or parts thereof, for motor vehicles.

(B) "Restricted information" means all unpublished information of the type usually classified as company confidential concerning applied as distinguished from basic research in, or concerning the development, innovation, manufacture, use, sale or installation of Devices. It includes trade secrets, unpublished company policy, and other unpublished technical information for developing, making, improving, or lowering the cost of, Devices by a motor vehicle manufacturer. "Restricted information" shall not mean (i) information concerning basic research in gaining a fuller knowledge or understanding of the presence, nature, amount, causes, sources, effects or theories of control of motor vehicle emissions in the atmosphere, or (ii) information relating primarily to equipment, methods or procedures for the testing or measurement of Devices, or (iii) information for or resulting from the testing or measurement of production prototypes of Devices of an advanced stage exchanged solely for such purposes. Information shall be deemed to be published when it is disclosed without restriction to the public, or to media of general circulation, or to the trade press, or to meetings of stockholders, dealers, or financial analysts, or to

meetings of professional, scientific or engineering societies, or committees thereof, the membership of which is not limited to persons employed by defendants or by motor-vehicle manufacturers, or to meetings called by representatives of Federal, state or local governments or agencies authorized to issue motor vehicle emission control regulations.

III

[*Applicability*]

The provisions of this Final Judgment shall be binding upon each defendant and upon each of its subsidiaries, officers, directors, agents, servants, employees, successors and assigns, and upon all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to any transaction between or among a parent company, its subsidiaries, officers, directors, agents, servants and/or employees. Nothing in this Final Judgment shall have any effect with respect to any activities outside the United States which do not adversely and substantially affect the foreign commerce of the United States.

IV

[*Pollution Control Devices*]

(A) Each defendant is enjoined and restrained from:

(1) Combining or conspiring to prevent, restrain or limit the development, manufacture, installation, distribution or sale of Devices;

(2) Entering into, adhering to, enforcing or claiming any right under any provisions of any agreement, arrangement, understanding, plan or program (hereinafter "agreement") with any other defendant or manufacturer of motor vehicles or Devices:

(a) to exchange restricted information;

(b) to cross-license patents or patents rights on Devices which cross-license includes patents or patent rights acquired subsequent to the date of any such cross-license;

(c) to delay installation of Devices or otherwise restrain individual decisions as to installation dates;

(d) to restrict publicity of research and development relating to Devices;

(e) to employ joint assessment of the value of patents or patent rights of any third party relating to Devices;

(f) to require that acquisition of patent rights relating to Devices be conditioned upon availability of such rights to others upon a most-favored-purchaser basis;

(g) to file, in the absence of a written authorization for a joint statement by the agency involved, with any governmental regulatory agency in the United States

authorized to issue emission standards or regulations for new motor vehicles or Federal motor vehicle safety standards or regulations, any joint statement regarding such standards or regulations, except joint statements relating to (i) the authority of the agency involved, (ii) the draftsmanship of or the scientific need for standards or regulations, (iii) test procedures or test data relevant to standards or regulations, or (iv) the general engineering requirements of standards or regulations based upon publicly available information; provided that no joint statement shall be filed which discusses the ability of one or more defendants to comply with a particular standard or regulation or to do so by a particular time, in the absence of a written agency authorization for such a joint statement, and provided also that any defendant joining in a joint statement shall also file a statement individually upon written request by the agency involved; or

(b) not to file individual statements with any governmental regulatory agency in the United States authorized to issue emission standards or regulations for new motor vehicles or Federal motor vehicle safety standards or regulations.

(B) Nothing in this Final Judgment shall prohibit any defendant

(1) from furnishing or acquiring any restricted information for the defense or prosecution of any litigation or claim;

(2) from entering into or performing under any otherwise lawful agreement with any other person or conducting *bona fide* negotiations looking to any such agreement:

(a) for the purchase or sale of specific commercial products;

(b) for the license of specific existing patent rights or from including in any such agreement provision for a nonexclusive grant-back of patent rights on improvements obtained by the licensee during the term of the license or a reasonable period thereafter; or

(c) for the purchase, sale or license of specific existing restricted information or specific engineering services relating to Devices or from including in any such agreement provision for a nonexclusive grant-back of patent rights on improvements obtained by the licensee during the term of the license or a reasonable period thereafter; or from furnishing or acquiring any restricted information directly relating thereto;

(3) from entering into, renewing or performing under any otherwise lawful agreement with any non-defendant person, firm or corporation that does not account for more than 2% of world production of motor vehicle passenger car, truck and bus units in the calendar year preceding the entering into or renewing such agreement (See Appendix A [Not Reproduced]); or

(4) from entering into, renewing or performing under any agreement which is submitted in writing to the plaintiff and to which plaintiff consents in writing.

(C) Nothing in Section IV(A)(2)(a) shall prohibit any defendant from engaging in any activity outside the United States reasonably necessary:

(1) to the development of, response to, or compliance with existing or proposed vehicle emission laws, regulations or standards of a foreign governmental body, or

(2) to the performance under any otherwise lawful agreement for the production of motor vehicles outside the United States with any person, firm or corporation not engaged in the production of motor vehicles in the United States at the time of entering into or renewing such agreement.

V

[*Withdrawal from Cross-Licensing Agreement*]

(A) Each manufacturing defendant is ordered and directed to exercise its right to withdraw from the AMA cross-licensing agreement of July 1, 1955, as amended, and to take such steps as are necessary to accomplish said withdrawal within one hundred twenty (120) days from the date of entry of this Final Judgment. Notwithstanding such withdrawal defendants may continue to exercise those rights and claims relating to royalty-free licenses under the cross-licensing agreement which have accrued up to the date of entry of this Final Judgment.

(B) Defendant AMA is ordered and directed to relinquish its responsibilities under the AMA cross-licensing agreement of July 1, 1955, as amended, within sixty (60) days from the date of entry of this Final Judgment.

VI

[*Co-operation with Licensees*]

(A) Upon written request therefor and subject to the conditions set forth herein:

(1) Each manufacturing defendant is ordered and directed to grant to any person to the extent that it has the power to do so a non-exclusive, non-transferable and royalty-free license to make, have made, use, lease or sell Devices under any claim of any United States patent or any United States patent application owned or controlled by said defendant or under which it has sub-licensing rights, which patent was issued or application was filed prior to the date of entry of this Final Judgment and licensed under the AMA cross-licensing agreement of July 1, 1955, as amended, provided that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license under this paragraph may provide for the payment of those same royalties to the defendant;

(3) Each manufacturing defendant shall grant to any licensee under (1) above, to the extent that it has the power to do so, an immunity from suit under any foreign counterpart patent or patent application for

any product manufactured in the United States under the license for sale abroad or for any product manufactured abroad and sold in the United States, provided, that if the manufacturing defendant is obligated to pay royalties to another on the sales of the licensee the license may provide for the payment of those same royalties to the defendant; and

(3) Defendant AMA is ordered and directed to make available for examination and copying by any person the technical reports in its possession or control prepared or exchanged by defendants pursuant to said cross-license within two years prior to the entry of this Final Judgment, which are identified in Appendix B [not reproduced];

(B) Any existing licensee of any manufacturing defendant shall have the right to apply for and receive a license or licenses under this Final Judgment in substitution for its existing license or licenses from any manufacturing defendant, insofar as future obligations, and licenses are concerned. Any licensee shall be free to contest the validity and scope of any licensed patent.

VII

[*Notification*]

Defendant AMA is ordered and directed to mail a copy of this Final Judgment to all signatories to the AMA cross-licensing agreement of July 1, 1955, as amended, and to all known domestic manufacturers of

motor vehicles and motor vehicle engines within thirty (30) days from the date of entry of this Final Judgment, and to issue a press release to the domestic trade and business press relating the substance of the Final Judgment.

VIII

[*Inspection and Compliance*]

For the purpose of determining or securing compliance with this Final Judgment, duly-authorized representatives of the Department of Justice shall, upon written request of the Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principle office, be permitted, subject to any legally recognized privilege, access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment, and subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters. Said defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by the means provided in this Section

shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

[*Expiration*]

Section IV(A)(2)(a) and (g) of this Final Judgment shall expire ten years after the date of entry hereof, provided that plaintiff may apply to this Court for the continuation of one or both of said provisions, such application to be made not later than nine years after the date of entry of this Final Judgment.

X

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate in relating to the construction of or carrying out of this Final Judgment, for the modification or vacating of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

APPENDIX D.

15 U.S.C. Sections 1, 15, 16(a), 29.

15 U.S.C. § 1. Trusts, Etc., in Restraint of Trade Illegal; Exception of Resale Price Agreements; Penalty.

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal: *Provided*, That nothing contained in sections 1-7 of this title shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trademark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 45 of this title: *Provided further*, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between

brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy declared by sections 1-7 of this title to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court. July 2, 1890, c. 647, § 1, 26 Stat. 209; Aug. 17, 1937, c. 690, Title VIII, 50 Stat. 693; July 7, 1955, c. 281, 69 Stat. 282.

15 U.S.C. § 15. Suits by Persons Injured: Amount of Recovery.

Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. Oct. 15, 1914, c. 323 § 4, 38 Stat. 731.

15 U.S.C. § 16. Judgment in Favor of Government as Evidence: Suspension of Limitations.

(a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has related

said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 15a of this title, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided*, That this section shall not apply to consent judgments or decrees entered in actions under section 15a of this title.

15 U.S.C. § 29. Appeals to Supreme Court.

In every civil action brought in any district court of the United States under any of said Acts, wherein the United States is complainant, an appeal from the final judgment of the district court will lie only to the Supreme Court. Feb. 11, 1903, c. 544, § 2, 32 Stat. 823; Mar. 3, 1911, c. 231, § 291, 36 Stat. 1167; June 9, 1944, c. 239, 58 Stat. 272; June 25, 1948, c. 646, § 17, 62 Stat. 989.